

*Via Facsimile: (703) 872-9306*

9D-RG-19294  
PATENT

### Remarks

The Office Action mailed June 28, 2004 has been carefully reviewed and the following remarks have been made in consequence thereof.

Claims 1-25 are now pending in this application.

Reconsideration of the restriction requirement imposed under 35 U.S.C. § 121 is respectfully requested.

A restriction to either invention I, consisting of claims 1-7 drawn to a method, classified in Class 426, subclass 233, or invention II, consisting of claims 8-25, drawn to an apparatus, was imposed. In response, Applicant elects with traverse to prosecute the invention of Group II, claims 8-25.

The requirement for election is traversed because the inventions set out by the claims in Groups I and II are clearly related because a thorough search and examination of one Group would be relevant to the examination of the other Group.

Regarding Groups I and II, the Office Action notes that "the apparatus of group II as claimed can be used to practice another and materially different process, for instance heating non-food materials." Applicant notes, however, that the method of Claim 1 can be used to heat non-food materials. Applicant respectfully submits that it is evident that the claims of Groups I and II have an overlapping nature such that a search and examination of Groups I and II can be made without serious burden. MPEP section 803 states that if "the search and examination of an entire application can be made without serious burden, the examiner *must* examine it on the merits, *even though it includes claims to independent or distinct inventions*" (emphasis added). Applicant respectfully submits that the search and examination of an entire application (Groups I and II) can be made without serious burden. For the reasons set forth above, Applicant

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respectfully requests examination of Groups I and II. Additionally, reconsideration of the election requirement is requested because election requirements are not mandatory.

In view of the foregoing remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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